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EXAMINER

EDELL, JOSEPH F

ART UNIT PAPER NUMBER

3636

DATE MAILED: 01/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/758,918

Applicant(s)

BURY, BARBARA JEAN

Examiner

Joseph F Edell

Art Unit

3636

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 January 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Objections

1. Claims 1-10 are objected to because of the following informalities:
 - a. claim 1, line 2, "(also referred to as rocker arm, runner, rocker)" should be deleted;
 - b. claim 1, line 3, "floor. comprising" should read --floor, comprising--;
 - c. claim 1, line 8, "foot.;" should read --foot;--;
 - d. claim 1, lines 11-13, "stragetic points (one at 8 inches from the front corner and one 6 inches from the back corner of opening)" should read --strategic points, one at 8 inches from the front corner and one 6 inches from the back corner of opening--;
 - e. claim 1, line 18, "foot.;" should read --foot;--;
 - f. claim 1, lines 21-22, "(also referred to as rocker arm, runner, rocker)" should be deleted;
 - g. claim 1, line 25, "foot." should read --foot;--;
 - h. claim 1, lines 28-29, "(also referred to as rocker arm, runner, rocker)" should be deleted;
 - i. claim 2, lines 5-6, "foot. Comprises a Two pieces" should read --foot, further comprising two pieces--;
 - j. claim 2, line 7, "length." should read --length--;

Art Unit: 3636

- k. claim 3, lines 4-6, "stragetic points (one at 8 inches from the front corner and one 6 inches from the back corner of opening)" should read --strategic points, one at 8 inches from the front corner and one 6 inches from the back corner of opening--;
- m. claim 3, line 7, "place. Comprises a Two eight" should read --place further comprising two, eight--;
- n. claim 4, lines 4-5, "(also referred to as rocker arm, runner, rocker)" should be deleted;
- o. claim 4, lines 5-6, "a Stretch fabric (4 way) 36" x 12"" should read --a four way stretch fabric 36" in length and 12" wide that is--;
- p. claim 4, line 7, "slipper. stretch" should read --slipper of stretch--;
- q. claim 5, line 4, "foot. comprises a Foam" should read --foot, further comprising a foam--;
- r. claim 5, line 5, "long. padding" should read --long padding--;
- s. claim 6, line 2, "(also referred to as rocker arm, runner, rocker)" should be deleted;
- t. claim 6, line 3, "floor." should read --floor,--;
- u. claim 6, line 4, "a Two" should read --two--;
- v. claim 6, line 5, "length." should read --length--;
- w. claim 6, line 9, "foot." should read --foot;--;
- x. claim 6, line 10, "a Two" should read --two--;

Art Unit: 3636

- y. claim 6, lines 13-15, "stragetic points (one at 8 inches from the front corner and one 6 inches from the back corner of opening)" should read --strategic points, one at 8 inches from the front corner and one 6 inches from the back corner of opening--;
- z. claim 6, line 16, "place.," should read --place,--;
- aa. claim 6, line 18, "a Stretch fabric (4 way) 36" x 12"" should read --a four way stretch fabric 36" in length and 12" wide that is--;
- bb. claim 6, lines 19-20, "slipper. stretch fabric, for " should read --slipper of stretch fabric wherein the--;
- cc. claim 6, lines 22-23, "(also referred to as rocker arm, runner, rocker)" should be deleted;
- dd. claim 6, line 24, "Foam" should read --foam--;
- ee. claim 6, line 25, "long. padding, for" should read --long padding of--;
- ff. claim 6, line 27, "foot.," should read --foot,--;
- gg. claim 7, line 3, "an Any" should read --a--;
- hh. claim 7, lines 3-4, "lace. lace" should read --lace--;
- ii. claim 7, line 6, "purposes.," should read --purposes,--;
- jj. claim 8, line 3, "Ribbon" should read --ribbon--;
- kk. claim 8, line 4, "slipper. bow, for this" should read --slipper bow wherein the--;
- mm. claim 9, line 3, "Ribbon" should read --ribbon--;
- nn. claim 9, line 4, "slipper. bow, for this" should read --slipper bow wherein the--;

Art Unit: 3636

oo. claim 10, line 2, "(also referred to as rocker arm, runner, rocker)" should be deleted;

pp. claim 10, line 4, "a Two" should read --two--;

qq. claim 10, line 5, "length." should read --length--;

rr. claim 10, line 9, "foot.;" should read --foot;--;

ss. claim 10, line 10, "an Any" should read --a--;

tt. claim 10, line 13, "purposes.," should read --purposes,--;

uu. claim 10, line 14, "a Two" should read --two--;

vv. claim 10, lines 17-19, "stragetic points (one at 8 inches from the front corner and one 6 inches from the back corner of opening)" should read --strategic points, one at 8 inches from the front corner and one 6 inches from the back corner of opening--;

ww. claim 10, line 20, "place.," should read --place,--;

xx. claim 10, line 21, "Lace" should read --lace--;

yy. claim 10, line 23, "Ribbon" should read --ribbon--;

zz. claim 10, line 24, "slipper. bow, for this" should read --slipper bow wherein the--;

aaa. claim 10, line 25, "only.;" should read --only;--;

bbb. claim 10, line 26, "a Stretch fabric (4 way) 36" x 12"" should read --a four way stretch fabric 36" in length and 12" wide that is--;

ccc. claim 10, lines 21-22, "slipper. stretch fabric, for " should read --slipper of stretch fabric wherein the--;

Art Unit: 3636

ddd. claim 10, lines 24-25, "(also referred to as rocker arm, runner, rocker)"

should be deleted;

eee. claim 10, line 27, "Foam" should read --foam--;

fff. claim 10, line 28, "long. padding, for" should read --long padding of--;

ggg. claim 10, line 30, "foot.," should read --foot,--.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-10 are rejected as failing to define the invention in the manner required by 35 U.S.C. 112, second paragraph.

The claim(s) are narrative in form and replete with indefinite and functional or operational language. The structure which goes to make up the device must be clearly and positively specified. The structure must be organized and correlated in such a manner as to present a complete operative device. The claim(s) must be in one sentence form only. Note the format of the claims in the patent(s) cited.

4. Claims 1-5 use a "means" clause to recite a claim element as a means for performing a specified function. However, it is unclear whether the applicant is invoking 35 U.S.C. 112, 6th paragraph in using the word "means" in claims 1-5. Because "means" has a distinct meaning within the U.S. Patent system and patent law in accordance with 35 U.S.C. 112, 6th paragraph ("means plus function"), the applicant

Art Unit: 3636

should delete or substitute another phrase for "means for fabric", "means for an elastic strip", and "means for foam", as this reference seems unintended in this case. See *Ex parte Klumb*, 159 USPQ 694 (Bd. App. 1967).

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 1-10, as best understood, are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,817,666 to Blount.

Blount shows a rocking chair slipper that includes all the limitations recited in claims 1-10, as best understood. Blount shows a rocking chair slipper having an elastic strip 32 (Fig. 2) enabling the slipper to stretch over a rocker foot 12 (Fig. 2), fabric strips 33 (Fig. 1) attached to an opening of the slipper to conform back to the rocker foot, foam padding 36 (Fig. 2), a decorative trim (Fig. 1), and a ribbon tied into a bow (see column 2, lines 49-52).

Conclusion

Art Unit: 3636

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The following patents are cited to further show the state of the art with respect to rocking chair slippers:

U.S. Pat. No. 557,521 to Werner

U.S. Pat. No. 653,103 to Lindeman

U.S. Pat. No. 7,55,423 to Williamson

U.S. Pat. No. 793,946 to Miller

U.S. Pat. No. 1,233,006 to Weishaar

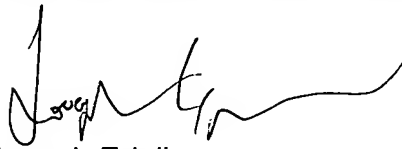
U.S. Pat. No. 1,252,418 to Fitz et al.

U.S. Pat. No. 3,669,490 to Bertolet

U.S. Pat. No. 5,564,782 to LaGrange et al.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph F. Edell whose telephone number is (703) 605-1216. The examiner can normally be reached on Mon.-Fri. 8:30am-5:00pm.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Joseph Edell
January 10, 2005